IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

THURSDAY, THE 20TH SEPTEMBER 2007 / 29TH BHADRA 1929

MFA.No. 220 of 2000()

OPMV.1007/1994 of MOTOR ACCIDENT CLAIMS TRIBUNAL, THRISSUR
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APPELLANT/6TH RESPONDENT:

NATIONAL INSURANCE CO. LTD., REP. BY THE ASST. MANAGER, REGIONAL OFFICE, KOCHI 682 035.

BY ADV. SRI.RAJAN P.KALLYATH

RESPONDENTS/PETITIONER AND RESPONDENTS 1 TO 5:

1.SHIYABUDEEN,S/O.AHAMMED,VALIYAKATH HOUSE, P.O.CHETTUVA,THRISSUR DIST. REP. BY HIS FATHER AND NEXT FRIEND AND GUARDIAN AHAMMED.

2.P.V.BASHEER,PUTHUVEETTIL HOUSE, ORUMANAYOOR, P.O.CHAVAKKAD.

3.ABDULLA @ MANAF,S/O.UMMER,PUTHUVEETTIL HOUSE, PALAMKADAVIL, ORUMANAYOOR, CHAVAKKAD.

4.ORIENTAL INSURANCE CO. LTD., BRANCH, KUNNAMKULAM.

5SAIDUMUHAMMED,S/O.AHAMMADUNNY,PUTHENPURAYIL HOUSE, KADAPPURAM P.O., THRISSUR.

6.NOWSHAD,S/O.AHAMMADUKUTTY, PANDARATHIL HOUSE, MADU, CHAVAKKAD.

BY ADV. SRI.B.KRISHNA MANI FOR R3
SRI.V.PREMCHAND
SRI.GEORGE CHERIAN (THIRUVALLA) FOR R4

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 20/09/2007 ALONG WITH MFA.NOS.256 & 743/2002, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NOS220, 256 & 743 OF 2002 ()

Dated this the 20th day of September, 2007

J U D G M E N T

KOSHY,J.

Sixth respondent Insurance company before the Motor Accidents Claims Tribunal, Thrissur filed this appeal. Three applications were filed contending that accident occurred due to the negligence of both drivers. There was head-on collision between two autorickshaws. One autorickshaw was insured by the 3rd respondent Oriental Insurance company (R4 in appeal) and other autorickshaw was insured by the 6th respondent National Insurance company (appellant herein). No independent oral evidence was adduced. But claimants adduced evidence to the effect that the accident occurred due to the negligence of both drivers. It is also come out in evidence that police charge sheeted the driver of the autorickshaw insured by the 3rd respondent Insurance company. A reading of the evidence would show that both

drivers were equally responsible for the accident. Therefore we are of the opinion that tribunal ought have apportioned the compensation to be paid by the 3rd respondent Oriental Insurance company Ltd. and 6th respondent National Insurance company Ltd. in equal proportion. The amount as awarded by the tribunal should be deposited equally by both Insurance companies and appeals are allowed to the above extent.

J.B.KOSHY, JUDGE

K.HEMA, JUDGE

prp

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NOS.220, 256 & 743 OF 2002

J U D G M E N T

20th September, 2007